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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,890	09/28/2001	John S. Hendricks	SEDN/3698D5	2106
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MOSER, PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER SHELEHEDA, JAMES R	
			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/964,890

Applicant(s)

HENDRICKS, JOHN S.

Examiner

James Sheleheda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                     |                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                         | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/15/02, 3/17/03</u> | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldstein (5,410,326).

As to claim 1, Goldstein discloses an interactive electronic program guide for display on a television for use with a television delivery system (column 33, lines 3-34), the guide comprising:

a home menu (master menu; column 34, lines 1-9);

a plurality of major menus displayed as menu options on the home menu (column 34, lines 6-19);

a plurality of sub-menus displayed as menu options on the plurality of major menus (column 34, line 67-column 35, line 59); and

a plurality of during programming menus enacted after selection of a program (additional information icons displayed during a program; column 14, lines 3-20).

As to claim 2, Goldstein discloses an introductory menu that is displayed upon beginning use of the guide (local menu to perform initialization; column 33, lines 11-34).

As to claim 3, Goldstein discloses wherein the guide is controlled by a set top terminal (television receiver; column 33, lines 11-33), and wherein the introductory menu automatically appears on the television screen when the set top terminal is turned on (column 3, lines 11-16).

As to claim 4, Goldstein discloses wherein the introductory menu displays information or messages from a television delivery system operations center that provides programming (column 33, lines 11-68).

As to claim 5, Goldstein discloses wherein the information or messages are directed to a particular subscriber (column 20, lines 54-63).

As to claim 6, Goldstein discloses wherein the information or messages are directed to a group of subscribers (column 20, lines 54-63).

As to claim 7, Goldstein discloses wherein the during program menus comprise hidden menus and program overlay menus (comprising overlaid icons and hidden embedded information; column 14, lines 3-20).

3. Claims 8-12, 16 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibson (5,539,871).

As to claim 8, Gibson discloses an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), the menu system comprising:

a logo that is displayed on a television during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56).

As to claim 9, Gibson discloses wherein the overlay menu includes menu options for a plurality of interactive features (column 5, lines 38-54 and column 6, lines 52-56).

As to claim 10, Gibson discloses wherein the overlay menu further includes a menu option to return to the program without the interactive features (column 6, lines 57-60 and Fig. 6, steps 610, 612 and 616).

As to claim 11, Gibson discloses a cursor that indicates one of the menu options (column 6, lines 51-56, column 4, lines 27-35 and column 3, lines 36-39), wherein the cursor is controlled by the user input (column 4, lines 27-35 and column 3, lines 36-39).

As to claim 12, Gibson discloses wherein the interactive features include facts related to the program (column 4, line 65-column 5, line 5).

As to claim 16, Gibson discloses wherein the logo is displayed as an overlay menu (overlaid button to select; column 4, lines 7-36).

As to claim 20, Gibson discloses wherein the logo is displayed in a corner of the screen of the television periodically for a specified duration (Fig. 3B, Fig. 4, step 408; column 5, lines 6-20).

4. Claims 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Banker et al. (Banker) (5,477,262).

As to claim 22, Banker discloses an interactive electronic program guide for controlling display of content on a television (column 3, lines 20-29), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of

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interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45),

wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43).

As to claim 23, Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

means for retrieving information about a subscriber (column 24, lines 19-39);

means for receiving a television signal (column 10, line 61-column 11, line 22);

means for extracting individual programs from the television signal (column 13, lines 49-59);

means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of

interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45), wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43); and

means for receiving the selection signals from the user input (Figs. 3 and 4; column 16, lines 19-42).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-15, 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson.

As to claim 13, while Gibson discloses a plurality of interactive menu items (column 6, lines 53-58) for use with the interactive features (column 6, lines 53-58), which are selectable through selection from the user input (column 6, lines 53-58 and



column 3, lines 36-38), he fails to specifically disclose a plurality of submenus which are displayed in response to a selection of the menu items.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a plurality of submenus which are displayed in response to user selection of a menu item, wherein the higher level menus list broad categories of information and the various submenus provide progressively more specific information, so as to limit the amount of information presented in any single menu listing and make menu navigation and selection more convenient, for the typical benefit of providing an simple, user friendly means to navigate a plurality of menu selections without the necessity of a single bulky listing of every available selection.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include a plurality of submenus which are displayed in response to a selection of the menu items for the typical benefit of providing an simple, user friendly means to navigate a plurality of menu selections without the necessity of a single bulky listing of every available selection.

As to claim 14, while Gibson discloses displaying a plurality of submenus (menu listing plural submenu selections, see claim 13 above and column 6, lines 53-56), he fails to specifically disclose wherein the submenus are displayed in a video window in a scaled down program video format.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to simultaneously display a menu with a plurality of

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selections on the same display as video programming, wherein the menu and video programming are each scaled to cover a smaller portion of the overall display to allow both to be displayed to the user at the same time, for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include wherein the submenus are displayed in a video window in a scaled down program video format for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

As to claim 15, while Gibson discloses displaying a plurality of submenus (menu listing plural submenu selections, see claim 13 above and column 6, lines 53-56), he fails to specifically disclose wherein the submenus and program are displayed on the television at the same time.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to simultaneously display a menu with a plurality of selections on the same display as video programming, wherein the menu and video programming are each scaled to cover a smaller portion of the overall display to allow both to be displayed to the user at the same time, for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include wherein the submenus and program are displayed on the television at the same time for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

As to claim 17, while Gibson discloses wherein the logo is displayed by the system (Fig. 3B), and wherein the system determines whether there is data or information about the program to be displayed as the one or more interactive features (column 5, lines 38-54) and displays the logo if there is data or information (column 6, lines 1-10), he fails to specifically disclose a set top terminal associated with the television.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a set top terminal associated with a television, as set top terminals are ubiquitous in the art for providing a small and low cost means to receiving and display television programming, for the typical benefit of utilizing a well known means to easily access and display broadcast television programming.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include a set top terminal associated with the television for the typical benefit of utilizing a well known means to easily access and display broadcast television programming.

As to claim 18, Gibson discloses wherein the set top terminal (see claim 17) generates an overlay menu including the logo (column 3, line 65-column 4, line 35 and column 6, lines 1-24).

As to claim 19, while Gibson discloses generating the overlay menu, he fails to specifically disclose a set top converter using data received during a vertical blanking interval.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a set top converter for receiving and using data from a vertical blanking interval, as receiving data during a vertical blanking interval at a set top terminal allows a cable headend or other programming provider to download additional data and information to a user's system, such as interactive information or data updates, for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include a set top converter using data received during a vertical blanking interval for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

As to claim 21, while Gibson discloses wherein the logo is displayed for a particular period of time (pertaining to periods of time an object is on the display; column 6, lines 10-18 and column 4, lines 7-26 and lines 45-54), he fails to specifically disclose displaying the logo for 15 seconds during a plurality of ten-minute segments of the program.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to display specific objects in a media presentation for at least 15 seconds during a plurality of ten-minutes segments of the program, such as the main character or object in a television program or movie, for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gibson's system to include displaying the logo for 15 seconds during a plurality of ten-minute segments of the program for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

### ***Conclusion***

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

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and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2617

JS

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', with a long horizontal stroke extending to the right.

**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**